



**MONTGOMERY COUNTY ETHICS COMMISSION**  
**Advisory Opinion**  
**AO 09-09-010**

Section 19A-16(c)(2) provides that a public employee must not knowingly accept a direct or indirect gift from any person that the public employee knows, or reasonably should know, does business with the public employee's agency. A public employee asks whether she can accept a gift of free lodging from an employee of a contractor where the public employee serves as the contract monitor. We conclude that the public employee cannot accept the gift.

The public employee is a contract monitor in the Department of Health and Human Services. As a contract monitor, her duties include preparing requests for proposals for potential contractors, serving as the chair person on the qualification and selection committee that reviews and ranks the proposals, making site visits to evaluate the contractor's work, reviewing invoices from the contractor, addressing contract compliance issues, and regular meetings with the contractor and its employees to accomplish these duties.

In this case, the public employee has become friendly with an employee of one of the department's contractors who happens to own a condominium overseas. This employee has offered the public employee an opportunity to stay with her in her overseas condominium as her guest. The public employee asks whether she can accept this gift of free lodging.

We conclude that the public employee cannot accept this gift under § 19A-16(c)(2). The gift giver (the contractor's employee) does business with the public employee's agency. Moreover, the public employee's contract monitoring duties put her in a unique position to affect the economic interest of the contractor and its employees, including the gift giver.

The public employee proposes that she pay the fair market value of the free lodging. The Commission agrees that this proposed approach adequately addresses the conflict of interest.

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:



September 21, 2009  
Date

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Antar Johnson, Chair